



3731

PATENT

Atty. Docket No. 1273CIPCONFWCCON3  
(203-589CIPCONFWCCONIII)

IFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): David A. Nicholas et al. EXAMINER: Sarah K. Webb  
SERIAL NO.: 10/037,977 GROUP: Art Unit 3731  
FILED: November 9, 2001 DATED: January 3, 2006  
FOR: **ARTICULATING ENDOSCOPIC SURGICAL APPARATUS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

INFORMATION DISCLOSURE STATEMENT

Sir:

Pursuant to Applicant(s) duty of disclosure, the information listed in the attached form PTO/SB/08A is brought to the attention of the Examiner. Copies of the foreign references are attached hereto.

The following non-English foreign references were cited for the following reasons:

French publication no. 2681775 was cited to illustrate an endoscopic instrument having an articulatable tool assembly. See FIG. 6.

French publication no. 2,542,188 was cited to illustrate a surgical stapling device including a cartridge 19 and an anvil 20. See FIG. 1.

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postpaid in an envelope, addressed to the: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 3, 2006.

Dated: January 3, 2006

Christopher G. Trainor  
Christopher G. Trainor

German publication no. 4,213,426 was cited to show an endoscopic surgical instrument including a remotely controlled tool assembly.

German publication no. 4,300,307 was cited to show an endoscopic instrument having an articulating remotely controlled tool assembly.

European publication no. 0369324 was cited to show an endoscopic surgical instrument having a pair of remotely controlled jaws. See FIG. 1.

USSR publication nos. 659146 and 728848 were cited to illustrate surgical stapling devices having a cartridge assembly and an anvil assembly.

USSR publication nos. 980703 and 990220 were cited to show endoscopic devices having an articulating remotely controlled tool member.

German publication nos. 33 03 335A1, 87 11 051.2, 93 00 161.4, 90 07 356.8 and 91 09 097.0 are cited to show endoscopic instruments having a distally located tool assembly which can be actuated from a proximal end of the instrument. The tool assembly disclosed in the 93 00 161.4 publication appears to be capable of articulation.

The citation of the listed items is not a representation that they constitute a complete or exhaustive listing of the relevant art or that the references are prior art.

The items listed are submitted in good faith, but are not intended to substitute for the Examiner's search. It is hoped, however, that in addition to apprising the Examiner of these particular items, they will assist in identifying fields of search and in making as full and complete a search as possible.

The filing of this information disclosure statement is not an admission that the information cited herein is, or is considered to be, material to patentability as defined in

37 C.F.R. §1.56(b). To the best of Applicant(s) knowledge, this information disclosure statement is being filed before the date of mailing of a first Office Action on the merits in connection with this case.

[X] Please charge any deficiency as well as any other fee(s) which may become due under 37 C.F.R. §1.16 and/or §1.17 at any time during the pendency of this application, or credit any overpayment of such fee(s) to Deposit Account 21-0550. Also, in the event any extensions of time for responding and/or a petition under 37 C.F.R. §1.17(i)(i) are required for the pending application(s), please treat this paper as a petition to extend the time and/or enter this Information Disclosure Statement as required and charge Deposit Account No. 21-0550 therefor. TWO (2) COPIES OF THIS SHEET ARE ENCLOSED.

The claims of this application as now presented are believed to patentably distinguish over the prior art and to be in condition for allowance. Early and favorable consideration of this application is respectfully requested.

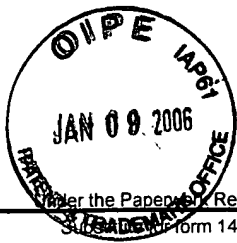
Respectfully submitted,

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PTO/SB/08a (08-03)

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## INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

### Complete if Known

Application Number	10/037,977
Filing Date	November 9, 2001
First Named Inventor	David A. Nicholas
Art Unit	3731
Examiner Name	Sarah K. Webb
Attorney Docket Number	1273 CIPCONFWCCONIII (203-589)

Sheet 1 of 9

### U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
		US-6,877,647	04/12/2005	Green et al.	
		US-6,698,643	03/02/2004	Whitman	
		US-6,619,529	09/16/2003	Green et al.	
		US-6,436,097	08/20/2002	Nardella	
		US-6,250,532	06/26/2001	Green et al.	
		US-5,922,001	07/13/1999	Yoon	
		US-5,918,791	07/06/1999	Sorrentino et al.	
		US-5,871,135	02/16/1999	Williamson IV et al.	
		US-5,862,972	01/26/1999	Green et al.	
		US-5,829,662	11/03/1998	Allen et al.	
		US-5,817,109	10/06/1998	McGarry et al.	
		US-5,797,536	08/25/1998	Smith et al.	
		US-5,782,834	07/21/1998	Lucey et al.	
		US-5,749,893	05/12/1998	Vidal et al.	
		US-5,728,110	03/17/1998	Vidal et al.	
		US-5,711,472	01/27/1998	Bryan	
		US-5,690,269	11/25/1997	Bolanos et al.	
		US-5,667,517	09/16/1997	Hooven	

### FOREIGN PATENT DOCUMENTS

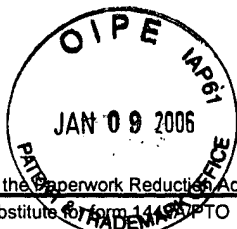
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		Country Code <sup>3</sup> Number <sup>4</sup> Kind Code <sup>5</sup> (if known)				
		France 2681775	10/1991			
		France 2542188	9/1984			
		Germany 4213426	10/1992			
		Germany 4300307	7/1994			
		EPO 0369324	5/1990			

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STATEMENT BY APPLICANT**

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Examiner Name	Sarah K. Webb
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Sheet 2

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		Number-Kind Code <sup>2</sup> (if known)			
		US-5,662,662	09/02/1997	Bishop et al.	
		US-5,658,300	08/19/1997	Bitto et al.	
		US-5,647,526	07/15/1997	Green et al.	
		US-5,645,209	07/08/1997	Green et al.	
		US-5,636,780	06/10/1997	Green et al.	
		US-5,630,541	05/20/1997	Williamson, IV et al.	
		US-5,626,587	05/06/1997	Bishop et al.	
		US-5,618,291	04/08/1997	Thompson et al.	
		US-5,607,095	03/04/1997	Smith et al.	
		US-5,601,224	02/11/1997	Bishop et al.	
		US-5,597,107	01/28/1997	Knodel et al.	
		US-5,588,581	12/31/1996	Conlon et al.	
		US-5,588,580	12/31/1996	Paul et al.	
		US-5,584,425	12/17/1996	Savage et al.	
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		US-5,554,169	09/10/1996	Green et al.	
		US-5,540,375	07/30/1996	Bolanos et al.	

**FOREIGN PATENT DOCUMENTS**

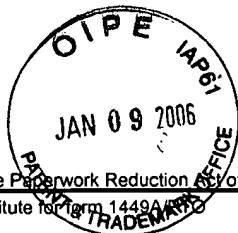
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		Country Code <sup>3</sup> Number <sup>4</sup> Kind Code <sup>5</sup> (if known)				
		USSR 659146	4/1979			
		USSR 728848	5/1977			
		Russian Federation 980703	12/1982			
		Russian Federation 990220	1/1983			
		EPO 0552423	7/1993			

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STATEMENT BY APPLICANT**

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**Complete if Known**

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		Number-Kind Code <sup>2</sup> (if known)			
		US-5,518,164	05/21/1996	Hooven	
		US-5,518,163	05/21/1996	Hooven	
		US-5,505,363	04/09/1996	Green et al.	
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		US-5,447,265	09/05/1995	Vidal et al.	
		US-5,433,721	07/18/1995	Hoooven et al.	

**FOREIGN PATENT DOCUMENTS**

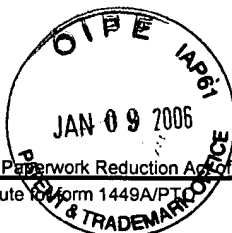
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		Country Code <sup>3</sup> Number <sup>4</sup> Kind Code <sup>5</sup> (if known)				
		EPO 0598579	5/1994			
		EPO 0621006	10/1994			
		United Kingdom 2048685	12/1980			
		United Kingdom 2165559	4/1986			
		United Kingdom 1452185	10/1976			

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STATEMENT BY APPLICANT**

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**Complete if Known**

Application Number	10/037,977
Filing Date	November 9, 2001
First Named Inventor	David A. Nicholas
Art Unit	3731
Examiner Name	Sarah K. Webb
Attorney Docket Number	1273 CIPCONFWCCONIII (203-589)

Sheet 4 of 9

**U.S. PATENT DOCUMENTS**

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		US-5,431,323	07/11/1995	Smith et al.	
		US-5,431,322	07/11/1995	Green et al.	
		US-5,425,745	06/20/1995	Green et al.	
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		US-5,413,268	05/09/1995	Green et al.	
		US-5,407,293	4/18/1995	Crainich	
		US-5,397,324	03/14/1995	Carroll et al.	
		US-5,397,046	03/14/1995	Savage et al.	
		US-5,395,034	03/07/1995	Allen et al.	
		US-5,395,033	03/07/1995	Byrne et al.	
		US-5,383,880	01/24/1995	Hooven	
		US-5,382,255	01/17/1995	Castro et al.	
		US-5,381,943	01/17/1995	Allen et al.	
		US-5,376,095	12/27/1994	Ortiz	
		US-5,364,003	11/15/1994	Williamson, IV	
		US-5,364,002	11/15/1994	Green et al.	

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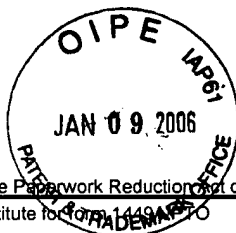
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		WIPO 9308754	5/1993			
		WIPO 9314706	8/1993			
		EPO 0589306	3/1994			
		EPO 0136950	4/1985			
		EPO 0220029	4/1987			

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		US-5,336,232	08/09/1994	Green et al.	
		US-5,332,142	07/26/1994	Robinson et al.	
		US-5,328,077	07/12/1994	Lori	
		US-5,326,013	07/05/1994	Green et al.	
		US-5,318,221	06/07/1994	Green et al.	
		US-5,312,023	05/17/1994	Green et al.	
		US-5,307,976	05/03/1994	Olson et al.	
		US-5,282,807	02/01/1994	Knoepfler	
		US-5,246,156	09/21/1993	Rothfuss et al.	
		US-5,209,747	5/11/1993	Knoepfler	
		US-5,170,925	12/15/1992	Madden et al.	
		US-5,171,247	12/15/1992	Hughett et al.	
		US-5,173,133	12/22/1992	Morin et al.	
		US-5,152,279		Wilk	
		US-5,141,144	08/25/1992	Foslien et al.	
		US-5,129,570	07/14/1992	Schulze et al.	
		US-5,111,987	05/12/1992	Moeinzadeh et al.	

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		EPO 0591946				
		EPO 0592243				
		EPO 0621009				
		EPO 0656188				
		EPO 0213817				

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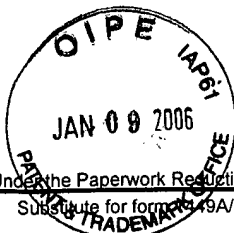
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**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

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**Complete if Known**

Application Number	10/037,977
Filing Date	November 9, 2001
First Named Inventor	David A. Nicholas
Art Unit	3731
Examiner Name	Sarah K. Webb
Attorney Docket Number	1273 CIPCONFWCCONIII (203-589)

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**U.S. PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
		US-5,084,057	01/28/1992	Green et al.	
		US-5,083,695	01/28/1992	Foslien et al.	
		US-5,074,454	12/24/1991	Peters	
		US-5,071,430	12/10/1991	De Salis et al.	
		US-5,065,929	11/19/1991	Schulze et al.	
		US-5,040,715	08/20/1991	Green et al.	
		US-4,991,764	02/12/1991	Mericle	
		US-4,978,049	12/18/1990	Green	
		US-4,950,273	8/21/1990	Briggs	
		US-4,941,455	7/17/1990	Watanabe et al.	
		US-4,892,244	01/09/1990	Fox et al.	
		US-4,872,456	10/10/1989	Hasson	
		US-4,863,088	09/05/1989	Redmond et al.	
		US-4,784,137	11/15/1998	Kulik et al.	
		US-4,752,024	06/21/1988	Green et al.	
		US-4,728,020	03/01/1988	Green et al.	
		US-4,703,887	11/03/1987	Clanton et al.	
		US-4,671,445	06/09/1987	Barker et al.	
		US-4,633,874	01/06/1987	Chow et al.	

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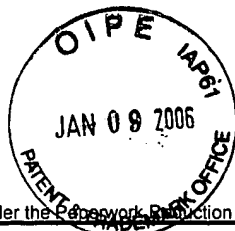
Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>
		Country Code <sup>3</sup> Number <sup>4</sup> Kind Code <sup>5</sup> (if known)				
		EPO 0273468				
		EPO 0324638				
		EPO 0373762				
		EPO 0380025				
		EPO 0449394				

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**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

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**Complete if Known**

Application Number	10/037,977
Filing Date	November 9, 2001
First Named Inventor	David A. Nicholas
Art Unit	3731
Examiner Name	Sarah K. Webb
Attorney Docket Number	1273 CIPCONFWCCONIII (203-589)

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**U.S. PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
		US-4,633,861	01/06/1987	Chow et al.	
		US-4,610,383	09/09/1986	Rothfuss et al.	
		US-4,608,981	09/02/1986	Rothfuss et al.	
		US-4,602,634	07/29/1986	Barkley	
		US-4,589,413	05/20/1986	Malyshev et al.	
		US-4,505,414	03/19/1995	Filipi	
		US-4,429,695	02/07/1984	Green	
		US-4,027,510	6/07/1977	Hiltebrandt	
		US-3,892,228	7/1/1975	Mitsui	
		US-3,788,303	1/29/1974	Hall	
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		US-Re38,708	03/0120/05	Bolanos, et al.	
		US-			
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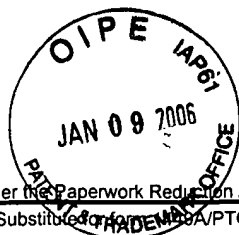
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		Country Code <sup>3</sup> Number <sup>4</sup> Kind Code <sup>5</sup> (if known)				
		EPO 0484677	5/1992			
		EPO 0489436	6/1992			
		EPO 0503662	9/1992			
		EPO 0514139	11/1992			
		EPO 0537572	4/1993			

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First Named Inventor	David A. Nicholas
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Examiner Name	Sarah K. Webb
Attorney Docket Number	1273 CIPCONFWCCONIII (203-589)

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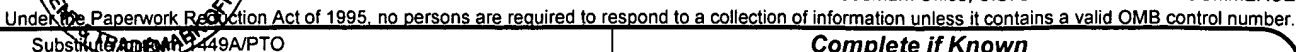
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		Country Code <sup>3</sup> Number <sup>4</sup> Kind Code <sup>5</sup> (if known)				
		United Kingdom 2141066	12/1984	United Kingdom		
		WIPO WO9210976	7/1992	WIPO		
		WIPO WO8302247	7/1993	WIPO		
		EPO 0324637	7/1989	EPO		
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		EPO 0593920	04/1994	EPO		
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		EPO 0324635	07/1989	EPO		
		EPO 0399701	11/1990	EPO		
		EPO 0552050	7/1993	EPO		
		WO 89/10094	11/1989	WO		
		EPO 0156774	10/1985	EPO		
		EPO 0216532	4/1987	EPO		
		EPO 0536903	4/1993	EPO		

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Sheet	9	of	9
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